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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,242	10/27/2000	Susumu Hizukuri		4962

4678 7590 12/04/2006

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EXAMINER

LEWIS, PATRICK T

ART UNIT PAPER NUMBER

1623

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,242

Applicant(s)

HIZUKURI ET AL.

Examiner

Patrick T. Lewis

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,7,8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7,8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/08)
Paper No(s)/Mail Date 09182006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's Response Dated September 18, 2006

1. Claims 1-2, 4, 7-8 and 10-13 are pending. An action on the merits of claims 1-2, 4, 7-8 and 10-13 is contained herein below.
2. The rejections of claims 1-2, 4, 7 and 10-12 under 35 U.S.C. 103(a) as being unpatentable over Weibel US 4,831,127 (Weibel); Vovlas et al. Revue. Nematol. (1985), Vol. 8 (2), pages 125-130 (Vovlas); and Arena et al. US 4,752,579 (Arena) in combination is maintained for the reasons of record set forth in the Office Action dated June 14, 2006.
3. The rejection of claim 8 under 35 U.S.C. 103(a) as being unpatentable over Weibel US 4,831,127 (Weibel); Vovlas et al. Revue. Nematol. (1985), Vol. 8 (2), pages 125-130 (Vovlas); and Arena et al. US 4,752,579 (Arena) in combination as applied to claims 1-2, 4, 7 and 10-11 above, and further in view of Gatzi et al. Hel. Chim. Acta. (1938), Vol. 21, pages 195-205 (Gatzi) is maintained for the reasons of record set forth in the Office Action dated June 14, 2006.
4. The rejection of claim 13 under 35 U.S.C. 103(a) as being unpatentable over Weibel US 4,831,127 (Weibel); Vovlas et al. Revue. Nematol. (1985), Vol. 8 (2), pages 125-130 (Vovlas); and Arena et al. US 4,752,579 (Arena) in combination as applied to claims 1-2, 4, 7 and 10-12 above, and further in view of Gatzi et al. Hel. Chim. Acta. (1938), Vol. 21, pages 195-205 (Gatzi) is maintained for the reasons of record set forth in the Office Action dated June 14, 2006.

Rejections of Record Set Forth in the Office Action Dated June 14, 2006

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-2, 4, 7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weibel US 4,831,127 (Weibel); Vovlas et al. Revue. Nematol. (1985), Vol. 8 (2), pages 125-130 (Vovlas); and Arena et al. US 4,752,579 (Arena) in combination.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weibel US 4,831,127 (Weibel); Vovlas et al. Revue. Nematol. (1985), Vol. 8 (2), pages 125-130 (Vovlas); and Arena et al. US 4,752,579 (Arena) in combination as applied to claims 1-2, 4, 7 and 10-11 above, and further in view of Gatzi et al. Hel. Chim. Acta. (1938), Vol. 21, pages 195-205 (Gatzi).

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weibel US 4,831,127 (Weibel); Vovlas et al. Revue. Nematol. (1985), Vol. 8 (2), pages 125-130 (Vovlas); and Arena et al. US 4,752,579 (Arena) in combination as applied to claims 1-2, 4, 7 and 10-12 above, and further in view of Gatzi et al. Hel. Chim. Acta. (1938), Vol. 21, pages 195-205 (Gatzi).

Response to Applicant's Arguments

9. Applicant's arguments filed September 18, 2006 have been fully considered but they are not persuasive. Applicant argues that the cited prior art teaches away from the instant invention.

As set forth in the prior Office Action, reaction times which are sufficient to liberate hemicellulosic components from sugar beet pulp, pectin and arabinogalactans will vary depending on pH employed and the reaction temperature. As will also be understood by those skilled in the art, wide combination of pH's, reaction time and temperature will be satisfactory for performing the disclosed methods. Such persons will appreciate that variations of such parameters may be employed to modify the total output of hemicellulosic materials to be produced in accordance with the described methods. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention that acidic hydrolysis of parenchymal cell-containing plants would yield arabinose, with the yield being dependent upon the reaction conditions (i.e. temperature, pH, time, etc.).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

10. Claims 1-2, 4, 7-8, and 10-13 are pending. Claims 1-2, 4, 7-8, and 10-13 are rejected. No claims are allowed.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

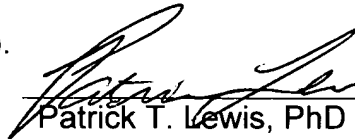
Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick T. Lewis whose telephone number is 571-272-0655. The examiner can normally be reached on Monday - Friday 10 am to 3 pm (Maxi Flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick T. Lewis, PhD
Primary Examiner
Art Unit 1623

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